



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Foley Company
File: B-228531
Date: February 16, 1988

DIGEST

Where the only interpretation of a base bid that reflects a logical sequence of base bid and deductive item prices makes the intended base bid price other than low, the base bid must be rejected.

DECISION

Foley Company protests the rejection of its bid as non-responsive under invitation for bids (IFB) No. 668-24-87, issued by the Veterans Administration (VA). The protester contends that the VA improperly found its bid ambiguous with respect to price and therefore nonresponsive. Foley asserts that its base bid is clear, unambiguous and the lowest responsive bid.

We deny the protest.

The solicitation was for the renovation of a boiler plant at a VA medical center. As originally issued, the IFB provided a blank for the entry of a base bid price only. Two solicitation amendments were issued contemporaneously with the IFB. The second amendment instructed bidders to submit not only a base bid, but two deductive bid alternates (DBAs) as well. According to the amendment, the base bid (bid item No. 1) included all the work specified in the original solicitation in addition to all amendments. DBA 1 included all of the work required in bid item No. 1, except for safety and construction signs and chain fencing. DBA 2 included all work required under DBA 1, except a deletion of all work relating to the blowdown tank and its respective piping/controls. As a result each DBA encompasses less work than the original solicitation required. Although bidders were given these narrative instructions, the IFB's price schedule was not amended to provide additional blank lines for the two DBAs.

041282

Foley initially submitted a bid, on the base bid only, of \$3 million. It submitted no bid for either DBA 1 or DBA 2. Prior to bid opening, however, Foley submitted a modification letter which provided the following:

"To ascertain our correct bid price, please make the following changes to our previously mailed bid.

Bid item No. 1:	ADD /Deduct \$1,546,070
Amendment No. 2	
Deductive Bid Alternate One	\$1,542,870
Deductive Bid Alternate Two	<u>\$1,535,997</u> " ^{1/}

With respect to the DBAs, the letter did not specifically say whether the figures shown were to be added or deducted or whether they were the actual bids for the two DBAs.

After bid opening, Foley contacted the contracting agency and informed a contract specialist that the prices submitted by Foley for the base bid and DBAs 1 and 2 were amounts to be deducted from the original bid. The bids were evaluated and the contracting officer decided that Foley's bid was "ambiguous and thus non-responsive."

Foley Company asserts that it is inconceivable that its base bid of \$1,453,930 can be misinterpreted, since its base bid was clearly said to be determined by deducting \$1,546,070 from \$3 million. As for the DBAs, Foley argues that their higher cost per se does not make the bid nonresponsive.

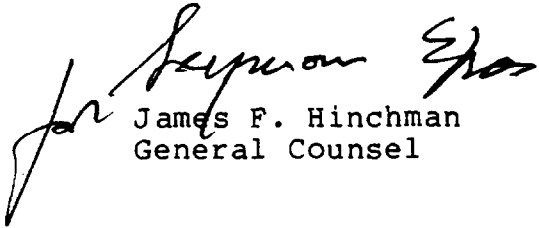
If the award is made on a base bid price of \$1,453,930, Foley is the lowest responsive bidder, since the next low base bid is \$1,457,000. If, however, DBAs 1 or 2 are the basis of award or Foley's base bid price is \$1,546,070, Foley is not the lowest responsive bidder.

It is true that Foley's base bid when read by itself with the word "add" crossed out leaving the word "deduct" next to the base bid line item is unambiguous. However, to determine the intended bid price, the entire bid must be considered. Fischer-White-Rankin Contractors, Inc., B-213401, Apr. 24, 1984, 84-1 CPD ¶ 471. Aerojet Techsystems, Corp., B-220033, Dec. 6, 1985, 85-2 CPD ¶ 636. In this case, the deductive items do not logically follow from the base bid. That is, even though they are for less work, the prices are higher. This is an anomaly since there is no reasonable explanation, other than a mistake on Foley's part, that would cause less work to cost more. Foley has offered no

^{1/} The word "ADD" was crossed out on Foley's bid modification.

real explanation, of its pricing, except to say that maybe it had reasons of its own to charge more for less work. Consequently, we find the ambiguities created by the anomaly in the deductive amounts overshadow Foley's "deduct" instructions to arrive at its base bid. Since the one interpretation of Foley's bid, which reflects a logical sequence of the base bid and deductive item prices, does not make Foley's base bid low, Foley's bid must be rejected.

The protest is denied.

James F. Hinchman
General Counsel